



July 27, 2018

**VIA SERFF**

The Honorable Trinidad Navarro  
Insurance Commissioner  
Department of Insurance  
State of Delaware  
841 Silver Lake Boulevard  
Dover, DE 19904-2465

**Attention: Tanisha Merced, Deputy Insurance Commissioner**

**RE: DCRB Filing No. 1802 - Proposed Effective December 1, 2018  
Manual Housekeeping Revisions to Sections 1 & 2 of the Basic Manual**

Dear Commissioner Navarro and Deputy Commissioner Merced:

On behalf of the members of the Delaware Compensation Rating Bureau (DCRB), we hereby submit the proposed filing for revisions to the DCRB Workers' Compensation Manual of Rules, Classifications and Rating Values for Workers' Compensation and Employers Liability Insurance (Basic Manual). These revisions are proposed for policies with effective dates of 12:01 a.m., December 1, 2018 or later. This proposed effective date is intended to make implementation of these changes concurrent with DCRB's normal annual comprehensive residual market rate and voluntary market loss cost filing, which will be filed with the Department of Insurance at a later date. This coordination consolidates necessary changes that our members and other constituents must make to policies, forms and systems so that they occur once annually. Nothing in the proposed Manual language housekeeping revision will impact any classification's loss cost or rate value.

Details of this filing are provided in DCRB's May 30, 2018 staff memorandum, which is included as part of this filing. The memorandum describes and explains the reasoning for the proposed revisions to the Basic Manual language. These proposals are intended to assist in the administration of the DCRB's uniform classification plan and do not revise the scope of any classification. The memorandum and proposals were reviewed by the DCRB Classification and Rating Committee at the Committee's May 30, 2018 meeting.

The proposed Basic Manual language housekeeping revisions generally fall into the following categories:

- Section 1 – Proposal to clarify Rule V.B.2. with respect to the inclusion of automatic gratuities as remuneration.
- Section 1 – Proposal to revise the Rule IX.A.4. language for clarity.
- Section 1 – Clarification to Rule IV.B. (General Inclusions).
- Section 2 – Addition of a definition for the phraseology "To Be Separately Classified Or Separately Classify."
- Section 2 – Clarification of 8 classification descriptions.
- Section 2 – Addition of 7 new Underwriting Guide entries.

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Thank you in advance for your review and attention to this filing. The DCRB is pleased to answer any question that you or the Department of Insurance staff may have regarding these proposals.

Sincerely,

William V. Taylor  
President

Enclosure: Revisions to Sections 1 & 2



TO: Delaware Compensation Rating Bureau, Inc. (DCRB)  
Classification and Rating Committee

FROM: Robert Ferrante – Senior Classification Analyst – Technical Services  
Classification Department

DATE: May 30, 2018

RE: Proposed Manual Language Revisions to Sections 1 & 2 (Housekeeping)

The proposals discussed in this memorandum are intended to make the Manual language clearer and less ambiguous. The proposed revisions clarify existing classification procedures and update certain classification descriptions in order to align the language used with that in other Manual provisions and/or to recognize ongoing technological or industrial changes. Language changes and/or additions are underlined while language deletions are crossed out.

The Section 1 and Section 2 revisions are provided below. Where warranted, the proposed revisions are preceded by explanatory background. None of the language revisions will impact any classification's proposed December 1, 2018 DCRB loss cost or Residual Market rating value. The DCRB recommends that all of the Section 1 and Section 2 language revisions proposed herein become effective December 1, 2018.

## SECTION 1

### RULE V – PREMIUM BASIS

#### B. REMUNERATION – PAYROLL

##### 2. INCLUSIONS

No change to items a. through t.

[u. Automatic Gratuities \(See Tips vs. Automatic Gratuities in the General Auditing & Classification Information section\).](#)

##### 3. EXCLUSIONS

No change to items a. through d.

e. ~~Tips and other gratuities~~ received by employees (~~EXCEPTION: Automatic Gratuities. See Tips vs. Automatic Gratuities in the General Auditing & Classification Information section~~) [after minimum wage adjustment has been applied \(refer to Inclusions, o\).](#)  
No change to items f. through n.

## RULE IX – SPECIAL CONDITIONS OR OPERATIONS AFFECTING COVERAGE AND PREMIUM

### A. EXECUTIVE OFFICERS

No change to items 1 through 4.

#### 4. Executive Officers Remuneration – TREATMENT OF

The remuneration of executive officers shall be treated in accordance with the following procedures:

1. The remuneration of an executive officer shall not be included with the payroll of the ~~risk employer~~ for premium computation purposes, provided:
  - (a) ~~That such~~ The executive officer is elected for the value of his or her name or because of stock holdings, has no duties and does not come on the premises, except perhaps to attend directors' meetings.
  - (b) ~~That such~~ The executive officer ~~because of age or for other reasons~~ ceases to perform any duties and does not come on the premises, except perhaps to attend directors' meetings.
2. The remuneration of an executive officer shall be included with the payroll of the ~~risk employer~~ for premium computation purposes, subject to the minimum and maximum provisions of the Basic Manual, provided:
  - (a) ~~That such~~ The executive officer ~~because of age or for other reasons~~, ceases to perform any duties, but ~~nevertheless~~, frequently visits the premises of the ~~risk employer~~.
  - (b) ~~That such~~ The officer frequently visits the premises of the ~~risk employer~~ for business conferences, directors' meetings or similar duties, ~~although also an officer or employee of another risk even if the officer is an employee or officer of another employer~~ in the operations of which he/she takes an active interest.
  - (c) The officer receives no salary; however, a regular salary is credited to him or her on the books. In this instance, the amount credited must be included in payroll.
  - (d) The officer receives no salary or the audit records fail to disclose the salary. In this instance, the amount to be included in the payroll is the applicable corporate officer minimum.
3. ~~Under the following conditions, the amount of remuneration of executive officers which shall be included with the payroll of the risk for premium computation purposes, subject to the minimum and maximum amounts of the Basic Manual, shall be as indicated below:~~
  - (a) ~~Where the officer draws no salary in fact, but a regular salary is credited to him or her on the books, the amount so credited shall be included in the payroll of the risk as his or her remuneration.~~
  - (b) ~~Where the officer draws no salary in fact, but a regular salary is credited to him or her on the books and subsequently charged back to such officer, the amount so credited shall be included in the payroll of the risk as his or her remuneration regardless of such charge off.~~

- (e) ~~Where the officer draws no regular salary but draws such various sums as his or her needs or the conditions of the business dictate, the actual amount drawn shall be included in the payroll of the risk as his or her remuneration.~~
- (d) ~~Where the officer receives no salary in fact, either drawn or credited, or where the records presented to the auditor fail to disclose the salary, the amount to be included in the payroll of the risk shall be the applicable manual minimum per week.~~

## RULE IV – CLASSIFICATIONS

*This revision is intended to convey that operations cited as General Exclusions are to be separately rated. Payroll developed by employees who interchange between duties assignable to the employer's governing classification and operations cited as General Exclusions may be divided between the employer's governing classification and the classification applicable to the General Exclusion provided the employer maintains separate payroll records*

### B. CLASSIFICATIONS

No change items 1 through 3.

#### 4. GENERAL EXCLUSIONS

Some operations in a business are so unusual that they are excluded from basic classifications. They are ~~classified separately~~ separately rated unless specifically included in the basic classification wording. These operations are called general exclusions and are:

No change to items 1 through 5,

## SECTION 2

### DEFINITIONS

No change in items **ALL EMPLOYEES EXCEPT OFFICE** through **RATING SYSTEM**.

**TO BE SEPARATELY CLASSIFIED OR SEPARATELY CLASSIFY:** When either of these terms is found in a classification's definition, the specified task designated "to be separately classified" or "separately classified" must be separately staffed by non-interchanging personnel.

## CLASSIFICATIONS

*The Code 012 classification description is amended to recognize that employers principally engaged in the operation of a sod farm were reclassified from Code 0013 to Code 0006 effective December 1, 2017.*

### 012 LANDSCAPE CONTRACTOR Or Lawn Cutting Or Maintenance Contractor

Includes the construction of dry stone walls...or lawn maintenance operations.

#### OPERATIONS NOT INCLUDED:

1. No change.
2. Assign Code 0013 to separately-staffed nursery, or Christmas tree raising ~~or sod farm operations.~~
3. No change.
4. [Assign Code 0006 to sod farms.](#)

## UNDERWRITING GUIDE ADDITION

### 012 [Residential Pond or Water Garden Installation](#)

### 647 INSULATION WORK, N.O.C.

Includes the installation or application...within building walls.

#### OPERATIONS ALSO INCLUDED:

1. [A](#) Weatherization Programs, ~~the purpose of which is to~~ insulates the client's home, which may be a detached house, twin, a row house or a mobile home. The clients are generally either elderly, on a fixed income or are low-income families. All of a weatherization program's tasks (e.g., fixing windows and/or doors, installing blown or ~~vat~~ insulation, putting in foam sealants, doing caulking or putting in weather stripping) are incidental to the efforts of preventing outside air from infiltrating the home and concurrently preventing warm or air-conditioned air from escaping the home's insulation.

#### OPERATIONS NOT INCLUDED:

No change to Items 1 or 2.

## UNDERWRITING GUIDE ADDITION

### 660 [Cable Television – System Hookup Or Service – By Specialist Contractor](#)

**Staff proposes to eliminate the phrase “ – within Buildings” from the Code 661 classification title because not all of the operations classified to Code 661 necessarily take place within buildings e.g., *Electric Cable Laying with Automatic Equipment – Street to Building – By Specialist Contractor.***

**661 ELECTRICAL WIRING** ~~–within BUILDINGS`~~

#### **UNDERWRITING GUIDE ADDITION**

**664** [Ductless Heating And/Or Air Conditioning System – Installation, Service Or Repair](#)

**919 FLORIST STORE** - Retail or Wholesale

Applies to a business principally engaged in the retail and/or wholesale selling of fresh cut flowers, potted plants, fresh cut floral arrangements or florist store supplies. Also includes service away from the store premises, such as floral decoration of homes, churches or other buildings for weddings, banquets or parties.

Also includes plantscaping, which is the maintenance of living (typically potted) plants inside a customer's premises. The living, potted plants may be used to decorate the interiors of malls, offices or other businesses, as well as residences. Plantscaping duties include watering, fertilizing, trimming and/or spraying of the interior living, potted plants.

#### **OPERATIONS NOT INCLUDED:**

1. Assign Code 0011 to a business principally engaged in raising, [growing or cultivating](#) flowers [and/or plants used for indoor decorative purposes](#) ~~in fields or under glass to be marketed on a commercial basis as cut flowers or living plants.~~ Stores operated ~~by such a business~~ at the same or contiguous location may be separately classified to Code 919 provided the [stores are physically separate and separately staff](#) ~~employer fulfills the multiple enterprise criteria discussed in Rule IV, C. 3. a. 2. of this Manual. The store must be operated in a physically separate work area with no interchange of labor between the store and the flower raising.~~
2. No change
3. Assign Code 0013 to a business principally engaged in ~~the raising of~~ trees (including Christmas trees), shrubs, [bushes](#), hedges and [or bedding](#) ~~other outdoor living/growing plants used for outdoor planting.~~

No change to Items 4, 5 or 6.

#### **UNDERWRITING GUIDE ADDITION**

**928** [Medical Marijuana Dispensary](#)

**953** Clerical **OFFICE** Employees

[Applicable to](#) ~~Are~~ employees exclusively engaged in keeping the books...except in connection with any classification designated “all employees including office.”

**OPERATIONS NOT INCLUDED:**

No changes to Items 1 through 4.

**957 PHYSICIAN OR DENTIST**, all employees including office.

This classification is for the physician's or dentist's office...therapy (physical or mental).

**OPERATIONS ALSO INCLUDED:**

1. House calls by physicians.

**OPERATIONS NOT INCLUDED:**

No change to Items 1 through 5.

**UNDERWRITING GUIDE ADDITIONS:**

**960** Hospice Facility

**971** Gutter Cleaning – Residential Or Commercial – By Specialist Contractor

**0011 FLOWER RAISING, CULTIVATING OR GROWING**

Applicable ~~only~~ to businesses principally engaged in raising, growing or cultivating flowers and/or plants used for indoor decorative purposes~~in fields or under glass to be marketed on a commercial basis as cut flowers or living plants.~~

**OPERATIONS ALSO INCLUDED:**

1. An employer principally engaged in vegetable growing in a hothouse or greenhouse and/or by the hydroponic method.

**OPERATIONS NOT INCLUDED:**

1. Assign Code 919 to a physically separate and separately staffed ~~staff in a physically separate~~ store or outlet operated by an employer classified to Code 0011~~at the same or contiguous location to the flower raising.~~

**UNDERWRITING GUIDE ADDITIONS:**

**0011** Medical Marijuana Growing

**0013 NURSERY**

Applicable to businesses principally engaged in raising trees (including Christmas trees), shrubs and/ or bedding plants used for outdoor planting.



**OPERATIONS NOT INCLUDED:**

1. Assign Code 928 to separately staffed and physically separated ~~store~~~~retail garden center~~ where the principal category of merchandise sold consists of fertilizer, sod, grass seed, flower pots, birdbaths and/or statuary, with incidental sales of potted plants, trees, shrubs, bulbs or bedding plants or outlet operated by an employer classified to Code 0013.

**GENERAL AUDITING & CLASSIFICATION INFORMATION**

***This is a correction to an error in the Employment Contractor – Temporary Staffing cross reference chart. Presently, Code 661 incorrectly appears twice in the cross reference chart – under both Code 695 (which is correct) and Code 947 (which is incorrect). Further, Code 662 should be shown under Code 947 but was inadvertently omitted. This revision removes Code 661 from Code 947 and adds Code 662.***

Code 947 chart revision:     ~~661~~662



TO: Delaware Compensation Rating Bureau, Inc. (DCRB)  
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DATE: May 30, 2018

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  - (b) The executive officer ceases to perform any duties and does not come on the premises, except perhaps to attend directors' meetings.
2. The remuneration of an executive officer shall be included with the payroll of the employer for premium computation purposes, subject to the minimum and maximum provisions of the Basic Manual, provided:
  - (a) The executive officer ceases to perform any duties, but frequently visits the premises of the employer.
  - (b) The officer frequently visits the premises of the employer for business conferences, directors' meetings or similar duties, even if the officer is an employee or officer of another employer in the operations of which he/she takes an active interest.
  - (c) The officer receives no salary; however, a regular salary is credited to him or her on the books. In this instance, the amount credited must be included in payroll.
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#### **012 LANDSCAPE CONTRACTOR** Or Lawn Cutting Or Maintenance Contractor

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##### **OPERATIONS NOT INCLUDED:**

1. No change.
2. Assign Code 0013 to separately-staffed nursery or Christmas tree raising.
3. No change.
4. Assign Code 0006 to sod farms.

### **UNDERWRITING GUIDE ADDITION**

#### **012 Residential Pond or Water Garden Installation**

#### **647 INSULATION WORK, N.O.C.**

Includes the installation or application...within building walls.

##### **OPERATIONS ALSO INCLUDED:**

1. A Weatherization Program insulates the client's home, which may be a detached house, twin, a row house or a mobile home. The clients are generally either elderly, on a fixed income or are low-income families. All of a weatherization program's tasks (e.g., fixing windows and/or doors, installing blown or insulation, putting in foam sealants, doing caulking or putting in weather stripping) are incidental to the efforts of preventing outside air from infiltrating the home and concurrently preventing warm or air-conditioned air from escaping the home's insulation.

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1. Assign Code 0011 to a business principally engaged in raising, growing or cultivating flowers and/or plants used for indoor decorative purposes Stores operated at the same or contiguous location may be separately classified to Code 919 provided the stores are physically separate and separately staff.
2. No change
3. Assign Code 0013 to a business principally engaged in raising trees (including Christmas trees), shrubs, bushes, hedges and/or bedding plants used for outdoor planting.

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**OPERATIONS NOT INCLUDED:**

1. Assign Code 919 to a physically separate and separately staffed store or outlet operated by an employer classified to Code 0011.

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Code 947 chart revision: 662